1772

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WASHINGTON, D.C. 20231

RE: U.S. Application
Serial No: 09/462,502
Filed: January 24, 2000
Group: 1772
Inventor: Yasuo KONDO et al.
For: PANEL FOR AIR BAGS AND
METHOD OF MANUFACTURING THE SAME

SIR:

Attached hereto for filing are the following papers:

PROVISIONAL ELECTION

Our check in the amount of $--110.00-- is attached covering any required fees. In the event that any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate of this sheet is enclosed.

Respectfully submitted,

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Atty Docket No. 10641-0001-3 PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:	
Yasuo KONDO et al.	:	GROUP ART UNIT: 1772
SERIAL NO: 09/462,502	:	EXAMINER: C. SIMONE
FILED: JANUARY 24, 2000	:	
FOR: PANEL FOR AIR BAGS AND METHOD OF MANUFACTURING THE SAME	:	

HD 2-5-02

PROVISIONAL ELECTION

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

In response to the Restriction Requirement mailed on December 21, 2001, Applicants provisionally elect, with traverse, to continue prosecution on the invention of Group I, claims 1-19, drawn to a panel for an airbag.

Applicants are assuming that the Restriction and Election of Species Requirements made in the Office Action mailed on September 25, 2001 and responded to by a Provisional Election filed on October 25, 2001 have been withdrawn in view of Applicants' traversal thereof.

In addition to making the present election of Group I, claims 1-19, Applicants respectfully traverse the Restriction Requirement as being **improper**.

The present Restriction Requirement alleges that there are two (2) inventions, namely, Groups I and II, wherein Group I, claims 1-19, is drawn to a panel for an airbag and Group II, claim 20, is drawn to a method of producing a panel for an airbag.

On pages 2 and 3, the Office Action states, as follows:

> The inventions listed as Groups I do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Evidence of lack of unity between the two groups is found in JP 07-1444597 wherein it is found to disclose the feature of instant claim 1. As such, the special technical features of the claimed invention are not found to define a contribution over the prior art, and no single general inventive concept exists. Therefore, restriction is appropriate.

Applicants respectfully submit that the Restriction Requirement of December 21, 2001 does not specify the special technical features of the inventions in either Group I or Group II as is required by PCT Rules 13.1 and 13.2. Therefore, the Restriction Requirement is not at all clear as to how or why the two groups of invention are not so linked as to form a single general inventive concept for the unity of invention requirement to be fulfilled under PCT Rule 13.1 since no special technical features have been specified in order for Applicants to determine whether the technical relationship required by PCT Rule 13.2 has been met or whether the inventions of Group I and II do indeed lack the same or corresponding special technical features.

In addition, the Restriction Requirement of December 21, 2001 alleges that evidence of lack of unity of invention between the invention of Group I and the invention of Group II can be found in Japanese Patent Application Publication No. 07-144597 (hereinafter "JP '597"). However, it is not clear as to what basis the Restriction Requirement is using to apply any known publication or other reference to show lack of unity of inventions under PCT Rules 13.1 and 13.2. Indeed, the Restriction Requirements allegation that lack of unity of invention can be determined by reference to JP '597 appears to be more akin to an assertion of unpatentability under 35 U.S.C. § 102(a, b or e) or 35 U.S.C. § 103(a). However, it is not seen how the either 35 U.S.C. § 102(a, b or e) or 35 U.S.C. § 103(a) could be applied since, at this point in the prosecution, the Restriction Requirement is only attempting to determine

whether the listed inventions of Group I and Group II relate to a single general inventive concept under PCT Rules 13.1 and 13.2 and nothing about patentability is being decided.

Accordingly, it is respectfully urged that the Restriction Requirement of December 21, 2001 should be withdrawn as failing to have established lack of unity of invention related to a single general inventive concept in the required manner under PCT Rules 13.1 and 13.2 and that an action on the merits as to all of pending claims 1-20 should be forthcoming.

Respectfully submitted,

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